

AN ACT

relating to the delay of the transition to competition in the Western Electricity Coordinating Council service area and to net metering and energy efficiency goals and programs for utilities in that area.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 39, Utilities Code, is amended by adding Subchapter L to read as follows:

SUBCHAPTER L. TRANSITION TO COMPETITION AND OTHER PROVISIONS FOR CERTAIN AREAS OUTSIDE OF ERCOT

Sec. 39.551. APPLICABILITY. (a) This subchapter applies only to an investor-owned electric utility:

(1) that is operating solely outside of ERCOT in areas of this state that were included in the Western Electricity Coordinating Council on January 1, 2011;

(2) that was not affiliated with ERCOT on January 1, 2011; and

(3) to which Subchapters I, J, and K do not apply.

(b) The legislature finds that an electric utility subject to this subchapter is unable at this time to offer fair competition and reliable service to all retail customer classes in the area served by the utility. As a result, the introduction of retail competition for such an electric utility is delayed until fair competition and reliable service are available to all retail

1 customer classes as determined under this subchapter.

2 Sec. 39.552. COST-OF-SERVICE REGULATION. (a) Until the
3 date on which an electric utility subject to this subchapter is
4 authorized by the commission under Section 39.553(f) to implement
5 retail customer choice, the rates of the utility are subject to
6 regulation under Chapter 36.

7 (b) Until the date on which an electric utility subject to
8 this subchapter implements customer choice, the provisions of this
9 chapter, other than this subchapter and Sections 39.904 and 39.905,
10 do not apply to that utility.

11 Sec. 39.553. TRANSITION TO COMPETITION. (a) The events
12 prescribed by Subsections (b)-(f) shall be followed to introduce
13 retail competition in the service area of an electric utility
14 subject to this subchapter. The commission shall ensure that the
15 listed items in each stage are completed before the next stage is
16 initiated. Unless stated otherwise, the commission shall conduct
17 each activity with the electric utility and other interested
18 parties. The commission may modify the sequence of events required
19 by Subsections (b)-(e), but not the substance of the requirements,
20 if the commission finds good cause to do so. Full retail
21 competition may not begin in the service area of an electric utility
22 subject to this subchapter until all actions prescribed by those
23 subsections are completed.

24 (b) The first stage for the transition to competition
25 consists of the following activities:

26 (1) approval of a regional transmission organization
27 by the Federal Energy Regulatory Commission for the power region

1 that includes the electric utility's service area and commencement
2 of independent operation of the transmission network under the
3 approved regional transmission organization;

4 (2) development of retail market protocols to
5 facilitate retail competition; and

6 (3) completion of an expedited proceeding to develop
7 nonbypassable delivery rates for the customer choice pilot project
8 to be implemented under Subsection (c)(1).

9 (c) The second stage for the transition to competition
10 consists of the following activities:

11 (1) initiation of the customer choice pilot project in
12 accordance with Section 39.104;

13 (2) development of a balancing energy market, a market
14 for ancillary services, and a market-based congestion management
15 system for the wholesale market in the power region in which the
16 regional transmission organization operates; and

17 (3) implementation of a seams agreement with adjacent
18 power regions to reduce barriers to entry and facilitate
19 competition.

20 (d) The third stage for the transition to competition
21 consists of the following activities:

22 (1) the electric utility filing with the commission:

23 (A) an application for business separation in
24 accordance with Section 39.051;

25 (B) an application for unbundled transmission
26 and distribution rates in accordance with Section 39.201;

27 (C) an application for certification of a

1 qualified power region in accordance with Section 39.152; and

2 (D) an application for price-to-beat rates in
3 accordance with Section 39.202;

4 (2) the commission:

5 (A) approving a business separation plan for the
6 utility;

7 (B) setting unbundled transmission and
8 distribution rates for the utility;

9 (C) certifying a qualified power region, which
10 includes conducting a formal evaluation of wholesale market power
11 in the region, in accordance with Section 39.152;

12 (D) setting price-to-beat rates for the utility;
13 and

14 (E) determining which competitive energy
15 services must be separated from regulated utility activities in
16 accordance with Section 39.051; and

17 (3) completion of the testing of retail and wholesale
18 systems, including those systems necessary for switching customers
19 to the retail electric provider of their choice and for settlement
20 of wholesale market transactions, by the regional transmission
21 organization, the registration agent, and market participants.

22 (e) The fourth stage for the transition to competition
23 consists of the following activities:

24 (1) commission evaluation of the results of the pilot
25 project;

26 (2) initiation by the electric utility of a capacity
27 auction in accordance with Section 39.153 at a time to be determined

1 by the commission; and

2 (3) separation by the utility of competitive energy
3 services from its regulated utility activities, in accordance with
4 the commission order approving the separation of competitive energy
5 services.

6 (f) The fifth stage for the transition to competition
7 consists of the following activities:

8 (1) evaluation by the commission of whether the
9 electric utility can offer fair competition and reliable service to
10 all retail customer classes in the area served by the utility, and:

11 (A) if the commission concludes that the electric
12 utility can offer fair competition and reliable service to all
13 retail customer classes in the area served by the utility, the
14 commission issuing an order initiating retail competition for the
15 utility; and

16 (B) if the commission determines that the
17 electric utility cannot offer fair competition and reliable service
18 to all retail customer classes in the area served by the utility,
19 the commission issuing an order further delaying retail competition
20 for the utility; and

21 (2) on the issuance of an order from the commission
22 initiating retail competition for the utility, completion by the
23 utility of the business separation and unbundling in accordance
24 with the commission order approving the unbundling.

25 Sec. 39.554. INTERCONNECTION OF DISTRIBUTED RENEWABLE
26 GENERATION. (a) In this section:

27 (1) "Distributed renewable generation" has the

1 meaning assigned by Section 39.916.

2 (2) "Distributed renewable generation owner" means an
3 owner of distributed renewable generation that is a retail electric
4 customer.

5 (3) "Interconnection" has the meaning assigned by
6 Section 39.916.

7 (b) A distributed renewable generation owner in the service
8 area of an electric utility subject to this subchapter may request
9 interconnection by filing an application for interconnection with
10 the utility. An application for interconnection is subject to the
11 utility's safety and reliability requirements. The utility's
12 procedures for the submission and processing of an application for
13 interconnection shall be consistent with rules adopted by the
14 commission regarding interconnection.

15 (c) An electric utility that approves an application of a
16 distributed renewable generation owner under Subsection (b):

17 (1) shall install, maintain, and retain ownership of
18 the meter and metering equipment; and

19 (2) may install load research metering equipment on
20 the premises of the owner, at no expense to the owner.

21 (d) At the request of an electric utility that approves an
22 application of a distributed renewable generation owner under
23 Subsection (b), the owner shall:

24 (1) provide and install a meter socket, a metering
25 cabinet, or both a socket and cabinet at a location designated by
26 the utility on the premises of the owner; and

27 (2) provide, at no expense to the utility, a suitable

1 location for the utility to install meters and equipment associated
2 with billing and load research.

3 (e) An electric utility that approves an application of a
4 distributed renewable generation owner under Subsection (b) shall
5 provide to the owner the metering options described by Section
6 39.916(f) and an option to interconnect with the utility through a
7 single meter that runs forward and backward if:

8 (1) the owner:

9 (A) intends to interconnect the distributed
10 renewable generation at an apartment house, as defined by Section
11 184.011, occupied by low-income elderly tenants that qualifies for
12 master metering under Section 184.012(b) and the distributed
13 renewable generation is reasonably expected to generate not less
14 than 50 percent of the apartment house's annual electricity use; or

15 (B) has a qualifying facility with a design
16 capacity of not more than 50 kilowatts; and

17 (2) the distributed renewable generation or
18 qualifying facility that is the subject of the application is rated
19 to produce an amount of electricity that is less than or equal to:

20 (A) the owner's estimated annual kilowatt hour
21 consumption for a new apartment house or qualifying facility; or

22 (B) the amount of electricity the owner consumed
23 in the year before installation of the distributed renewable
24 generation or qualifying facility.

25 (f) For a distributed renewable generation owner that
26 chooses interconnection through a single meter under Subsection
27 (e):

1 (1) the amount of electricity the owner generates
2 through distributed renewable generation or a qualifying facility
3 for a given billing period offsets the owner's consumption for that
4 billing period; and

5 (2) any electricity the owner generates through
6 distributed renewable generation or a qualifying facility that
7 exceeds the owner's consumption for a given billing period shall be
8 credited to the owner under Subsection (g).

9 (g) An electric utility that purchases surplus electricity
10 under Subsection (f)(2) shall purchase the electricity from the
11 distributed renewable generation owner at the cost of the utility
12 as determined by commission rule. The utility shall take
13 reasonable steps to inform the owner of the amount of surplus
14 electricity purchased from the owner in kilowatt hours during the
15 owner's most recent billing cycle. A credit balance of not more
16 than \$50 on the owner's monthly bill may be carried forward onto the
17 owner's next monthly bill. The utility shall refund to the owner a
18 credit balance that is not carried forward or the portion of a
19 credit balance that exceeds \$50 if the credit balance is carried
20 forward.

21 (h) In a base rate proceeding or fuel cost recovery
22 proceeding conducted under Chapter 36, the commission shall ensure
23 that any additional cost associated with the metering and payment
24 options described by Subsections (e), (f), and (g) is allocated
25 only to customer classes that include distributed renewable
26 generation owners who have chosen those metering options.

27 Sec. 39.555. MARKETING OF ENERGY EFFICIENCY AND RENEWABLE

1 ENERGY PROGRAMS. An electric utility subject to this subchapter
2 may market an energy efficiency or renewable energy program
3 directly to a retail electric customer in its service territory and
4 provide rebate or incentive funds directly to a customer to promote
5 or facilitate the success of programs implemented under Section
6 39.905.

7 SECTION 2. This Act takes effect immediately if it receives
8 a vote of two-thirds of all the members elected to each house, as
9 provided by Section 39, Article III, Texas Constitution. If this
10 Act does not receive the vote necessary for immediate effect, this
11 Act takes effect September 1, 2011.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1910 passed the Senate on May 5, 2011, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 25, 2011, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1910 passed the House, with amendment, on May 20, 2011, by the following vote: Yeas 148, Nays 1, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor